

Application No.: 10/769,578  
Response dated: September 5, 2006  
Reply to Office Action dated: July 24, 2006

## REMARKS

In an Office Action mailed July 24, 2006, the Examiner in charge of the above-noted application imposed a requirement for restriction dividing the claims into three groups, which in the Examiner's opinion are not related.

In response, applicants provisionally elect Group I (Claims 1-15 and 19-24). This election is made with traverse and without prejudice to the eventual filing of a divisional application and rejoinder of any of the non-elected groups back into the application.

The Examiner also requested applicants to elect the specified species from the dependent claims of Group I. In response, applicants elect with traverse the following species identified within parentheses: the acceptor (a polypeptide); the donor-product (a nucleotide); the covalent adduct (a phosphate); the macromolecule (a monoclonal antibody); the tracer (a fluorescent molecule conjugated to a nucleotide); the catalytic activity (a kinase enzymatic activity); the immunoassay (an FPIA); and the fluorophore (a fluorescein, preferably Alexa Fluor®).

Accordingly, amended Claims 1, 3, 4-7, 9, 11, and 18-23 and new Claims 28-29 read on Group I and the elected species without introducing any new matter. However, applicants submit that upon the allowance of a generic Claims 1, 16 and 19 applicants will be entitled to reconsideration of the claims to include additional species which depend from or otherwise require all of the limitations of the allowable generic claim.

Applicants submit that the subject matter of Groups I-III are intimately linked in that a proper search for one group of claims would inevitably overlap with that for the others and the search results for one is relevant to the others. Applicants believe that a burden does not exist for searching more than one of the patentably related groups.

It is also noted that procedurally restriction requirements are optional in all cases (see MPEP § 803). If the search and examination of a claim set can be made without serious burden, the Examiner must examine the claims on the merits, even though they may be arguably directed at distinct or independent inventions (MPEP § 803). In the present application, and as described hereinabove, it is respectfully submitted that claims in Groups I-III and all of the species for each group can be examined together without serious burden on the Office. In contrast, it will be unduly burdensome on both the applicants and the Office to consider this highly related subject matter in several separate patent applications.

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Accordingly, applicants respectfully request that in view of the claim amendments, new claims and remarks, the requirement will be reconsidered, withdrawn and that a timely Notice of Allowance be issued in this case.

A petition for a one month extension of time accompanies this response so the response will be deemed timely filed. Please charge these fees to Deposit Account No. 17-0055. If any other fee is due or any other extension of time is required in this or any subsequent response, please consider this to be a petition for the appropriate extension and a request to charge the fees to Deposit Account No. 17-0055.

Respectfully submitted,



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